

A. —

Special Town Meeting  
November, 2009

**AMENDED PRELIMINARY SITE DEVELOPMENT AND USE PLAN**

**For the CD, Planned Commercial District Number 9 (“CD-9 District” or “Planned Commercial District”)**

**At 45, 55 and 65 HAYDEN AVENUE, LEXINGTON, MASSACHUSETTS (“Premises”)**

**October 3, 1997**

**Revised October 24, 1997**

**Further Revised November 5, 1997**

**Revised to ~~July 30,~~ October 5, 2009**

This Amended Preliminary Site Development and Use Plan (“APSDUP”) is prepared under the provisions of Article III, ~~Section~~§ 135-14 and Article VIII, ~~Section~~§ 135-42, of the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington which incorporates Amendments through September 2009 (“2009 Zoning By-Law”).

**Applicable Zoning By-Law:** The land and development in this CD-9 District is subject to only the use and dimensional limitations, as noted herein, unless specifically stated otherwise.

**Conditions on Transfer:** Any sale or transfer of rights or interests in the property in this Planned Commercial District shall include a condition that successors and assigns are bound to the terms and conditions of this ~~Preliminary Site Development and Use Plan~~ APSDUP and of any Special Permit with Site Plan Review (SPS) or other Special Permit granted by the Special Permit Granting Authority for this Planned Commercial District.

This APSDUP supplements, amends and restates the original ~~PSDUP~~ Preliminary Site Development and Use Plan approved by Town meeting in the Fall of ~~1997,~~ 1997 (“Original PSDUP”). Compliance of structures whether existing or hereafter constructed along with the uses conducted therein and the dimensional requirements governing the premises shall be solely based upon the terms and conditions of this APSDUP unless otherwise specified herein.

This APSDUP is divided into the following sections:

GENERAL. This section includes general information about the site and identifies the plans, exhibits and documents submitted herewith.

**PERMITTED USES.** This section describes uses that are permitted within the Planned Commercial District either by right or with the grant of a special permit.

**DIMENSIONAL STANDARDS.** This section describes the maximum allowed dimensional standards that would govern construction in the Planned Commercial District.

**DEFINITIONS.** This section provides definitions for dimensional requirements and uses that would govern the construction and development in the Planned Commercial District.

**OTHER ZONING PROVISIONS.** This section describes other zoning provisions that would be applicable in the proposed Planned Commercial District, including requirements related to landscaping, transition and screening, off-street parking and loading, traffic, signs and lighting and illumination.

**TABLE OF DEVELOPMENT DATA.** This section sets forth the table of development data for the conceptual layout of the Planned Commercial District. The final project layout is subject to the Dimensional Standards identified in Section ~~HHI~~ below.

**SPECIAL CONDITIONS.** This section sets forth the proposed special conditions that would apply within the Planned Commercial District.

## **I. GENERAL**

**Permitted Uses:** The principal and accessory uses permitted within the CD-9 District are specified within attached Appendix A.

**Location and Boundaries:** The property which is included in this Planned Commercial District has its frontage on Hayden Avenue and is commonly known as the 45, 55 and 65 Hayden Avenue property. Herein the lot known as 45-55 Hayden Avenue is referred to as “Area A” and the lot known as 65 Hayden Avenue is referred to as “Area B”. Area A and Area B are shown on the Plans, defined below. The metes and bounds description of the boundaries of the area within this existing CD-9 District are attached as **Appendix AB.**

**Plans, Exhibits and Documents:** ~~The following~~Certain plans, exhibits and other documents are submitted with and made a part of this APSDUP: and are attached as Appendix B:C.

The following Plans which have been prepared for this CD-9 District by Cubellis and are entitled as follows:

<u>Sheet No.</u>	<u>Title</u>	<u>Most Recent Date</u>
C1	Title Sheet	<del>7</del> <u>10/24</u> <del>6</del> <u>2009</u>
C2	Site Analysis Plan	<del>7</del> <u>10/24</u> <del>6</del> <u>2009</u>
C3	Locus Context Plan	<del>7</del> <u>10/24</u> <del>6</del> <u>2009</u>

C4	Property Rights & Dimensional Standards Plan	<del>7</del> <u>10</u> / <del>24</del> <u>6</u> /2009
C5	Site Construction and Utilities Plan	<del>7</del> <u>10</u> / <del>24</del> <u>6</u> /2009
C6	Landscaping Planting Plan	<del>7</del> <u>10</u> / <del>24</del> <u>6</u> /2009

### **~~Appendix C: Visual Representation Scale and Massing.~~**

Plans depicting conceptual architectural design for 65 Hayden Avenue (Area B denoted on the Plans) have been prepared by Olson Lewis Dioli & Doktor and are attached as Appendix D. Said plans are entitled as follows:

#### Title and Most Recent Date

Conceptual Aerial View entitled “Cubist Pharmaceuticals, Inc., Conceptual Aerial View including proposed addition to 65 Hayden Avenue<sup>2,3</sup>” dated ~~July 24~~,October 2, 2009, prepared by Olson Lewis Dioli & Doktor

Conceptual Entry View entitled “Cubist Pharmaceuticals, Inc., Conceptual Entry View including proposed addition to 65 Hayden Avenue<sup>2,3</sup>” dated ~~July 24~~,October 2, 2009, prepared by Olson Lewis Dioli & Doktor

### **~~III. PERMITTED USES.~~**

#### **~~Section 1.0 Institutional Uses~~**

#### **~~Allowed “By-Right”~~**

- ~~1.1 Day Care Center, school age child care program, nursery school, kindergarten~~
- ~~1.2 Public or private nonprofit college or technical school, trade or vocational school operated for college age students; includes buildings, land or other facilities used for educational purposes but not including space used for revenue producing purposes not directly associated with the education of students (for space used for revenue producing purposes, see commercial uses).~~
- ~~1.3 Public parks, playgrounds, municipal buildings or uses~~
- ~~1.4 Museum, art gallery, private library~~
- ~~1.5 Non profit community service center or charitable organization~~
- ~~1.6 Accessory use within a school, kitchen and dining facilities for staff or students; dwelling units for staff~~

~~1.7 — Institutional uses and related structures with less than 10,000 square feet of gross floor area, including the area of any existing structure but not including any floor area devoted to parking, on a lot provided the use is permitted~~

#### **Allowed “By Special Permit”**

~~1.8 — Institutional uses and structures with 10,000 square feet or more of gross floor area including the area of any existing structure but not including any floor area devoted to parking, on a lot provided the use is permitted and the SPGA grants a special permit with site plan (see §135-12 and §135-13 of the 2009 Zoning Bylaw) [A religious or non-profit educational use as described in §135-9E(1), is permitted as a matter of right in all zoning districts].~~

### **Section 2.0 — Accessory & Temporary Uses for All Institutional Uses**

#### **Allowed “By Right”**

~~2.1 — Dwelling Unit in institutional building for security, maintenance or administrative personnel~~

~~2.2 — Off Street parking and off street loading for automobiles. If outdoor parking spaces are provided for more than four automobiles for a dwelling unit, a special permit is required~~

~~2.3 — Building for storage of tools, lawn and garden equipment and supplies subject to the same dimensional controls as a principal building~~

~~2.4 — Greenhouse not used for commercial purposes subject to the same dimensional controls as a principal building~~

~~2.5 — Satellite receiving antenna~~

~~2.6 — Parking of trucks or other equipment to be used for the maintenance of buildings and grounds only; shall be parked only in a garage or in an area not within the minimum yard for the principal building and shall be screened from the view of abutting lots and the street~~

~~2.7 — Convenience business or other commercial uses in an institutional building; provided the use is conducted entirely within the principal building, is conducted primarily for the occupants and employees of the principal use and there is no evidence of the conduct of the accessory use from the street or from any lot line~~

### **3.0 — Office Uses**

#### **Allowed “By Right”**

~~3.1 — Real estate development, management~~

~~3.2 — Finance, credit investment but not in a bank~~

~~3.3 — Professional services such as law, engineering, architecture, consulting service~~

~~3.4 — Advertising, editing, composition, but not including printing, or other reproduction service~~

~~3.5 — Employment agency, office of a business, professional, labor, civic or social association~~

~~3.6 — Office or manufacturer's representative or salesman with no sales or storage and distribution of products from the premises~~

~~3.7 — Other business, administrative or professional office, not elsewhere classified~~

#### **~~Allowed "By Special Permit"~~**

~~3.9 — Medical office with related laboratory space providing outpatient services only.~~

#### **~~4.0 — Personal Business Uses~~**

#### **~~Allowed "By Right"~~**

~~4.1 — Bank, credit union~~

~~4.2 — ATM machine which may be either a principal use or accessory use~~

~~4.3 — Travel Agency, insurance agency, ticket agency~~

~~4.4 — Photographic services including commercial photography~~

~~4.5 — Photocopying, reproduction services but not commercial printing~~

~~4.6 — For-profit school for instruction in academics, art, skills or vocational training~~

#### **~~Allowed "By Special Permit"~~**

~~4.7 — Medical Clinic for out-patient services~~

~~4.8 — ATM machine which may be either a principal use or accessory use with drive-up window or auto-oriented branch bank~~

#### **~~5.0 — Commercial Recreation, Amusement, Entertainment~~**

#### **~~Allowed "By Special Permit"~~**

~~5.1 — Automobile parking lot where the parking spaces do not serve a principal use on the same lot and where no sales or service takes place~~

## ~~6.0 — Manufacturing~~

### ~~Allowed “By-Right”~~

~~6.1 — Laboratory engaged in research, experimental and testing activities, which may include the development of mock-ups and prototypes but not the manufacture of finished products~~

### ~~Allowed “By Special Permit”~~

~~6.2 — Manufacturing in the fields of biotechnology, medical, pharmaceutical, physical, biological and behavioral sciences and technology, environmental science, toxicology, genetic engineering, comparative medicine, bioengineering, cell biology, human and animal nutrition including the production of equipment, apparatus, machines and devices for research, development, manufacturing and advance and practical application in any such field or area, and including, office, administrative and support facilities related to any of the foregoing activities. All development proposals shall comply with applicable Federal, State and local laws, regulations and ordinances including, without limitation, laws, regulations and ordinances governing air pollution, water pollution control, noise and illumination.~~

~~6.3 — Light manufacturing~~

## ~~7.0 — Utilities, Communications and Transportation~~

### ~~Allowed “By-Right”~~

~~7.1 — Substations, pumping station or automatic telephone exchange of a regulated public utility~~

~~7.2 — Radio, Television studio, but without transmitting or receiving towers~~

### ~~Allowed “By Special Permit”~~

~~7.3 — Wireless communication facility in accordance with the 2009 Zoning By Law~~

## ~~8.0 — Accessory Uses for Commercial Uses~~

### ~~Allowed “By-Right”~~

~~8.1 — Off-street parking and loading for vehicles associated with the principal use. Note: an off-street parking structure must comply with the applicable dimensional controls~~

- ~~8.2 — Parking of trucks or other equipment to be used for the maintenance of buildings and grounds only; shall be parked only in a garage or in an area not within the minimum yard for the principal building and shall be screened from the view of abutting lots and the street~~
- ~~8.3 — Temporary overnight outdoor parking of freight carrying or material handling equipment~~
- ~~8.4 — Building for storage of tools, lawn and garden equipment and supplies subject to the same dimensional controls as a principal building~~
- ~~8.5 — Dumpster or other refuse disposal equipment (subject to Article X of the 2009 Zoning Bylaws)~~
- ~~8.6 — Convenience business use~~
- ~~8.7 — Cafeteria, dining room, conference room, function rooms, recreational facilities for the employees and clientele of the principal use; if the use is not otherwise permitted in the district, it shall not be available to the general public and shall be conducted entirely within the principal building with no evidence of the existence of the use from the street or from any lot line~~
- ~~8.8 — Accessory Sign (as permitted by Article XIII of the 2009 Zoning Bylaws)~~
- ~~8.9 — Processing, storage and limited manufacturing of goods and materials related solely to research, experimental and testing activities~~
- ~~8.10 — Uses accessory to permitted scientific research, development or related production activities~~
- ~~8.11 — Temporary building(s) or trailer(s) incidental to the construction of a building or land use (see §135-9F of the 2009 Zoning Bylaw)~~

#### **Allowed “By Special Permit”**

- ~~8.12 — Commercial use not otherwise permitted in district provided the use is conducted entirely within the principal building, is conducted primarily for the employees and clientele of the principal use; if the use is not otherwise permitted in the district, it shall not be available to the general public and shall be conducted entirely within the principal building with no evidence of the existence of the use from the street or from any lot line~~

#### **9.0 — Operational Standards for All Commercial Uses**

#### **Allowed “By-Right”**

- ~~9.1 — All operations are conducted entirely within an enclosed building~~

~~9.2 — Uses and structures with less than 10,000 square feet of gross floor area, including the area of any existing structures but not including any floor area devoted to parking, on a lot provided the use is permitted and complies with the operating and development standards in this table~~

**Allowed “By Special Permit”**

~~9.3 — Operations, in part or in whole, conducted outdoors during operating hours and subject to the transition and screening requirements as required by the Zoning Board of Appeals~~

~~9.4 — Storage of equipment and products outdoors during non-operating hours~~

~~9.5 — Uses and structures with 10,000 square feet or more of gross floor area including the area of any existing structure but not including any floor area devoted to parking, on a lot provided the use is permitted and the SPGA grants an SPS as provided in (135-12 and 135-13 of the 2009 Zoning Bylaw)~~

**10.0 — Temporary Uses**

**Allowed “By Special Permit”  
Wetlands Certificate.**

A Wetlands Certificate providing final certification of the total wetlands area on Area B are attached in **Appendix G.**

~~10.1 — Temporary structures and uses not otherwise permitted in the district provided the SPGA makes a finding that the proposed structure or use is compatible with the neighborhood (see 135-9F of the 2009 Zoning Bylaw)~~

**II. IV. DIMENSIONAL STANDARDS.**

The following special dimensional standards, which in certain categories are less restrictive than those provided for in the CRO Regional Office zoning district, shall solely apply in this Planned Commercial District. Additionally, in this CD-9 District any single lot may exceed the maximum Dimensional Standards so long as all of the lots in the aggregate do not exceed the maximum Floor Area Ratio or **BuildingSite** Coverage as set forth in the table below. ~~Notwithstanding the foregoing, the Floor Area Ratio and Building Coverage for Area A shall not exceed the amounts set for the in the Dimensional Standards as stated below:~~

~~AREA A (45 and 55 Hayden Avenue) and Area B (65 Hayden Avenue)~~

~~The maximum Building Height and Floor Area Ratio calculations impacting Area A have been derived by record building plans provided by Olson Lewis Dioli & Doktor.~~

Minimum Lot Area	5 Acres
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Minimum Lot Frontage	300 Feet
Minimum Front Yard Setback	100 Feet
Minimum Side Yard Setback	50 Feet (There shall be no side yard setback from any internal lot line for structures located within the CD-9 District)
Minimum Rear Yard Setback	50 Feet
Minimum Side and Rear Yard Facing Residential District	N/A
Maximum Site Coverage	25% <del>(aggregate)</del>
Floor Area Ratio <u>(FAR)</u>	.26 <del>(aggregate) maximum per Area:</del> <del>(i) (Area A) 45/55 Hayden Avenue: .19</del> <del>(ii) (Area B) 65 Hayden Avenue: .37</del>
Building Height (45/55 Hayden Avenue)	Occupied Building: 45 Feet (including existing structured parking underneath building)
Building Height (65 Hayden Avenue)	Occupied Building: 60 Feet Parking Garage/Structure: <del>80</del> <u>70</u> Feet

### III. ~~V.~~ **DEFINITIONS**

The Definitions within the 2009 Zoning Bylaw shall be applicable to the Premises, with the exception of the following:

~~**Maximum Gross Floor Area**—The sum, in square feet, of the horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings. Where the text of this By Law refers to floor area, the term shall mean gross floor area unless the term net floor area is used.~~

**Maximum Net Floor Area**- The sum, in square feet of the occupiable or habitable area in a building, which shall be determined by excluding the following from calculation of gross floor area:

- a. ~~areas~~ Areas used for parking or loading
- b. ~~areas~~ Areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling

equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment

- c. ~~the~~ The thickness of load bearing walls, at each floor
- d. ~~elevator~~ Elevator shafts and common stairways, and common hallways at each floor
- e. ~~porches~~ Porches, balconies, fire escapes which are unroofed
- f. ~~areas~~ Areas used for a child care facility
- g. ~~unoccupied~~ Unoccupied space areas for storage of materials related to permitted on site uses

or

the calculation of net floor area shall be based on 80% of the gross floor area excluding gross floor area for structured parking.

**~~Maximum Floor Area Ratio~~** -- ~~The ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot.~~

**~~Maximum Percentage Site Coverage~~** -- ~~The sum of all parts of a lot that are covered by a principal or accessory building or other structure, such parts of the lot to be delineated by the intersection of the ground with the vertical plane of the outermost walls or projections of a building or structure whether in contact with the ground or projecting over it.~~

### **Maximum Height of Buildings -**

- 1) The maximum height of a building shall not exceed the distance in feet, set forth in Section II Dimensional Standards for the district in which the building is located. The maximum height of a building in feet shall be the vertical distance between the lower elevation and the upper elevation, as described ~~below~~ in Article VII, § 135-39 of the 2009 Zoning Bylaw.

- a. ~~———— The lower elevation shall be: the natural grade of the land at the point of measurement prior to disturbance for construction. The elevation of the natural grade prior to the disturbance for construction shall be certified by a registered land surveyor, or may be such elevation as the Zoning Officer may determine from Town maps or records.~~

~~An average natural grade may be used, which shall be determined by computing the average of the elevations of the natural grade of the four extreme corners of the building, or, in the case of a non-rectangular building of such equivalent locations as the Zoning Officer may determine. In a case where the lower elevation, thus determined, is lower than the average of the elevations of the natural grades of the four extreme corners of the lot, the average of the elevations of the corners of the lot~~

~~may be used. In a case where the finished grade is lower than the natural grade, the finished grade shall be the lower elevation.~~

~~b. The upper elevation shall be:~~

~~1) in the case of a flat roof, the top of the highest roof beams; or~~

- ~~2) in the case of a pitched, gable, hip, gambrel, or mansard roof, the plane that passes through the ceiling of the top story. Where the top story is not finished with a horizontal ceiling, the elevation seven feet above the floor of the top story shall be considered equivalent to the ceiling.~~

~~2)- Structures other than buildings.~~

When located on the ground, the maximum height of structures, other than buildings, shall be the highest point on the structure and shall not exceed the maximum height for buildings in feet as set forth in Section II Dimensional Standards. Structures other than buildings, such as antennas, recreational apparatus, fences and the like may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line, except that a fence or wall not greater than six feet in height may not be located on, or closer to a lot line than six feet.

Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, skylights, cupolas, spires, parapets and the like may exceed the maximum height of a building in feet provided no part of the structure is more than 25 feet higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed 60 percent, with the exception of an aggregate area not to exceed 53 percent of the 60-percent total roof coverage area which shall be allowed to have mechanical systems which extends extend no more than 35' above the roof line.

The Board of Appeals may grant a special permit to exceed the maximum height in feet or the percentage of horizontal coverage of structures erected on a building allowed by Section II Dimensional Standards or these APSDUP provisions provided it makes a determination that the structure is compatible with the scale of the neighborhood and does not intrude on the solar access of any adjoining lot.

- 3) Average Height of Building: Where a building is on a sloping site or has some stories that do not extend for the full building coverage, the height in feet of the several elements of the building may be calculated separately provided that neither the maximum height in feet or the number of stories in any one element exceed that permitted by Section II Dimensional Standards.

- 4) Structures below ground: Where the upper elevation of a structure or building is below the elevation of the natural grade, and such structure is covered by earth to a depth sufficient to support vegetation, such structure may be located within a required front, side or rear yard, but no closer than five feet to a lot line. Open grates or small ventilation shafts servicing the part of the structure below ground may be located in the required yard.
- 5) Parking within building: Where a building contains parking spaces, a parking level shall be counted as a story unless more than one-half of such level vertically is below the lower elevations as described above. ~~Medical Office—Office and associated laboratory facilities for use by physicians, psychiatrists, physical therapists and other health care professionals for outpatient care services only.~~

#### IV.

#### ~~VI.~~ OTHER ZONING PROVISIONS.

##### **Effect of the creation of parcels or lots within the Planned Commercial District**

The land within this CD-9 District may be legally subdivided into separate parcels or lots, for example, for purposes of financing or conveying interests, but any successors shall be bound by the provisions and controls in this APSDUP, which shall remain in effect with respect to each such parcel or lot, unless amended by vote of Town Meeting. The dimensional standards and other zoning provisions as prescribed herein shall remain in effect where the boundaries of this Planned Commercial District adjoin other zoning districts, while the standards and provisions that apply within, but not on the perimeter of the district shall be modified as set forth below.

- As noted above, in this CD-9 District any single lot may exceed the maximum Dimensional Standards ~~(except as to FAR which shall be limited as to Area A and B as set forth therein)~~ so long as all of the lots in the aggregate District do not exceed the maximum Dimensional Standards identified in Section ~~III~~II.
- The instrument of conveyance effecting any sale or transfer of rights or interests in any lot in the district shall include a specific allocation of the maximum Floor Area Ratio under this provision for the property being transferred, which shall remain binding on the lot.
- In this Planned Commercial District, the provisions of the Zoning By-Law in effect at the time of Town Meeting adoption shall not apply, except a specifically otherwise noted herein.
- There shall be no required setback from the side and rear lot lines in this Planned Commercial District for the paved parts of parking spaces, driveways or maneuvering aisles, and these features may extend up to the side and rear lot lines, except that parking spaces along a lot line that coincides with the perimeter of the district (as opposed to

spaces along a lot line that is in the interior of the district) shall be required to comply with the ten-foot setback from a lot line.

- In the event that any lot in this Planned Commercial District is subdivided:
  - (a) parking spaces existing within this CD-9 District as of the filing of this APSDUP which may be required for one lot, may be located on a separate lot, which may be in separate ownership, notwithstanding any regulations or provisions to the contrary stated in the Zoning By-Law, so long as:
    - 1) all such spaces are for employees only; and not clientele unless specifically designated with appropriate signage; and
    - 2) where such lot is not in the same ownership, a lease or easement guaranteeing long-term use of such spaces, and satisfactory in form to the Town Counsel, is executed and filed in the Middlesex South Registry of Deeds; and
  - (b) a driveway on one lot may lead to a parking space or loading bay on another lot, or straddle the lot line and serve a parking space or loading bay on two or more lots, notwithstanding any regulations or provisions to the contrary stated in the Zoning By-Law, so long as a binding agreement between the applicable property owners, satisfactory in form to the Town Counsel, is executed and filed in the Middlesex South Registry of Deeds.

**Landscaping:** Landscaping, transition areas and screening in this Planned Commercial District shall be provided as follows:

Landscaping of the site, transitional areas and screening in this Planned Commercial District will be provided in general as shown on Sheet C6 of the Plans, prepared by Cubellis, dated ~~July 24,~~October 6, 2009 and will be consistent with the existing landscaping on the site. The definitive site development and use plan to be presented to the Special Permit Granting Authority will provide greater detail of said landscaping. The developer of 65 Hayden Avenue shall, to the extent practical incorporate into any definitive site development and use plan supplemental landscape design elements which are designed to enhance the existing visual buffer of the Area B Improvements.

**Off-Street Parking and Loading:** Design of parking lots, calculation of required off-street parking spaces and calculation of required loading bays in this Planned Commercial District shall be provided in compliance with Article XI, ~~Section~~§ 135-64 and ~~Section~~§ 135-65 of the 2009 Zoning Bylaws, with the exception of the following requirements:

TYPE OF USE	PARKING FACTOR <i>(minimum number of parking spaces to be</i>
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<i>provided)</i>	
<b>INSTITUTIONAL, EDUCATIONAL &amp; RECREATIONAL USES</b>	
College, technical school	As Needed
Day-care center, school age child care program, nursery school, kindergarten	1 per 500 s.f.
Lodge, community service center	1 per each 6 seats in the largest assembly area
Gymnasium, stadium, field house	1 per each 6 seats
Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, other institutional uses	As Needed
<b>OFFICE USES</b>	
All permitted Office uses (except as otherwise classified)	1 per 333 s.f.
Medical office, out-patient clinic	1 per 200 s.f.
<b>PERSONAL BUSINESS USE</b>	
Personal services, bank, business services, retail sales, and rental uses	1 per 250 s.f.
<b>MANUFACTURING, RESEARCH USES</b>	
Manufacturing, research laboratory	1 per 500 s.f.
Construction, storage, distribution and industrial service users	1 per 1,000 s.f.
All other permitted uses	As needed, usually 1 per employee

- Shared Parking Spaces - Parking for all uses (both existing and proposed) within the CD-9 District shall be permitted to be located in common parking lots as of right subject

to the recording of any necessary easements with the Middlesex South County Registry of Deeds.

- Reserve Spaces – The Developer may petition the SPGA as part of any definitive site development and use plan for a determination that the use(s) within the Premises can be accommodated with a parking ratio which is less than the minimum as required above. As part of this petition, the Developer shall be required to identify on said ~~Definitive Site Development and Use Plan~~ definitive site development and use plan the ability to fully construct the minimum number of required spaces per the ratios above, the legal right to use such spaces, and shall further identify those spaces being held in “reserve” for construction at a future date. Reserve Spaces may include future spaces to be constructed in a parking garage or surface parking in accordance with a definitive site development and use plan decision issued by the SPGA.

**Signs:** Signs are permitted in this Planned Commercial District in compliance with Article XIII, ~~Section~~§ 135-77 Business Districts of the 2009 Zoning By-Law, with the following exceptions:

Any wall sign, free standing sign or other legally permitted sign presently in existence on the Premises as of the submission date of this CD-9 District Amendment (~~July~~October 2009) may be retained and relocated within the Premises, so long as it is not enlarged unless permitted by the 2009 Zoning ~~Bylaws~~By-laws.

**Exterior Display ~~or Storage~~ Products:** No exterior display ~~or storage~~ of products will be allowed in this Planned Commercial District.

**Illumination:** ~~Exterior lighting will utilize shielded “cut off” style fixtures to prevent light spill onto adjoining properties. Exterior lighting in this Planned Commercial District shall be reduced in intensity after 10:00 p.m. to the minimum level sufficient for security. Lighting fixtures which emit white light with a good color rendering shall be used. Selection of fixtures and scheduled hours of illumination will be coordinated with the Design Advisory Committee as part of the special permit with site plan review process.~~ Outdoor lighting design shall comply with the provisions of Article XIV, § 135-79 of the 2009 Zoning By-Law.

**Special Permit Granting Authority:** The SPGA in this Planned Commercial District shall be governed by the provisions of Article III, ~~Section~~§ 135-12 and Article VIII, ~~Section~~§ 135-42 B (4) of the 2009 Zoning By-Law.

## V. ~~VII.~~ TABLE OF DEVELOPMENT DATA.

The Development Data below is provided for ~~Area B~~the aggregate CD-9 District (45, 55 and 65 Hayden Avenue ~~only~~). The maximum development capacity for ~~Area B~~this CD-9 District is as prescribed in Section ~~III Development~~II Dimensional Standards.

## ~~1. AREA B~~

<del>A.</del> <u>A.</u> Total land area:	<del>503,744</del> <u>1,628,227</u> s.f.
<del>B.</del> <u>B.</u> Area of vegetated wetland:	<del>57,175</del> <u>457,743</u> s.f.
<del>C.</del> <u>C.</u> Developable site area:	<del>446,587</del> <u>1,170,460</u> s.f.
<del>D.</del> <u>D.</u> Site Coverage of Buildings	<del>-16.55</del> <u>8.9</u> %
<del>E.</del> <u>E.</u> Total proposed impervious surface area:	<del>136,753</del> s.f. <u>444,124</u>
<del>F.</del> <u>F.</u> Proposed total gross floor area:	(a) <del>204,000</del> <u>375,603</u> s.f. Occupied
Building	
	(b) <del>180,000</del> <u>179,000</u> s.f. Garage Space
Total	<del>384,000</del> <u>554,603</u> s.f.
<del>G.</del> <u>G.</u> Proposed net floor area:	<del>-163,200</del> <u>300,483</u> s.f.
<del>H.</del> <u>H.</u> Floor area ratio:	<del>-0.37</del> <u>0.26</u>
<del>I.</del> <u>I.</u> Total number of off-street and garage spaces:	<del>-400</del> <u>922</u>
<del>K.</del> <u>J.</u> Number of loading bays:	<del>—</del> <u>2</u> <u>4</u>

## ~~2. AREA A~~

~~This APSDUP does not propose or authorize any additional development capacity for Area A beyond what exists as of the date hereof.~~

In accordance with the provisions of this APSDUP and Section II Dimensional Standards, any remaining square footage which can be constructed within the CD-9 District shall be permitted to be constructed in Area B (65 Hayden Avenue) only and shall be constructed in accordance with the restrictions and limitations prescribed within this APSDUP (“Area B Improvements”). Notwithstanding anything to the contrary contained herein, no additional square feet of gross floor area authorized pursuant to this APSDUP may be developed on Area A (45-55 Hayden Avenue).

## VI. ~~VIII.~~ SPECIAL CONDITIONS.

The following special conditions shall apply in this CD-9 District, Planned Commercial District. The following is an outline of the special conditions. The full text of provision Section VII. C. noted below is set forth in Appendix ~~D~~ E to this ~~Plan~~ APSDUP, as indicated below. Any cost or expense related to required mitigation related to Area B improvements shall be the sole and exclusive obligation of the owner of Area B (“Area B Special Mitigation”)

### A. Conservation Measures

An annual contribution (in materials, services or cash) equal to \$5,000 shall be made to the Conservation Commission for maintenance and upkeep of the Hayden Woods Conservation Area, as directed by the Conservation Commission.



**B. Gross Floor Area of Proposed Addition**

The gross floor area of the ~~proposed addition to~~ Area B/~~65 Hayden Woods~~ Improvements shall not exceed 204,000 square feet of occupied building area and ~~+80,000~~ 156,000 square feet of structured parking garage space. The maximum net floor area of the proposed occupied building space shall not exceed 163,200 square feet.

**C. Traffic Mitigation and Traffic Demand Management**

The ~~applicant~~ developer of Area B shall, as a condition of receiving a certificate of occupancy for the ~~proposed development~~ Area B Improvements, provide for the traffic mitigation and traffic demand management measures as described in Appendix DE. Additionally, the applicant has memorialized these measures in a Memorandum of Understanding, dated [REDACTED], 2009, as described in Appendix F and the terms and conditions of said Memorandum of Understanding are incorporated by reference herein and made a part hereof. The mitigating measures concerning traffic described in Appendix E and Appendix F of this APSDUP address the requirements of Article XII, § 135-71 thru § 135-73 of the 2009 Zoning Bylaw. The existing or proposed design, dimensions, configuration, length and other aspects of all internal roadways and drives shown on the APSDUP and ultimately approved by the SPGA at the time of any definitive site development and use plan shall supersede all other requirements of the 2009 Zoning By-Law.

**D. Sustainable Design and Construction**

The additional floor area (beyond that authorized in the original PSDUP) permitted pursuant to this APSDUP shall be constructed using, as a guideline, the “Silver Standard” of The Leadership in Energy and Environmental Design (LEED) Green Building System in effect as of the effective date of this amendment, to the extent commercially reasonable and to the extent that clear LEED standards for a given use or building type have been issued, and subject in all instances to the requirements and limitations of any tenants. The applicant shall provide the Zoning Enforcement Officer with evidence of compliance with this commitment which shall include certification from the applicant’s consultants.

## List of Appendices

Appendix A [Permitted Uses](#)

[Appendix B](#) Metes and Bounds description of CD-9 District

Appendix ~~B~~ ~~Plans~~

~~Appendix C~~ [Plans](#)

[Appendix D](#) Visual Representation Scale and Massing Plans

Appendix ~~D~~ [E](#) Proposed Traffic Mitigation and Site Transportation Demand Management Plan

[Appendix F](#) [Memorandum of Understanding dated \[REDACTED\], 2009](#)

Appendix ~~E~~ [G](#) Draft Wetlands Certificate

**APPENDIX A**  
**TO**  
**PRELIMINARY SITE DEVELOPMENT AND USE PLAN**

**SPECIAL TOWN MEETING**  
**NOVEMBER, 2009**  
**ZONING AMENDMENT TO COMMERCIAL DISTRICT NUMBER 9**

**45, 55 and 65 HAYDEN AVENUE**

**PERMITTED USES.**

The following uses are permitted within the CD-9 District subject to review and approval by the SPGA pursuant to Article III, § 135-12 of the 2009 Zoning By-Laws. All Accessory Uses permitted within the CRO District in accordance with Article IV, § 135-16 and Table 1 of the 2009 Zoning By-Laws shall continue to be permitted within this CD-9 District.

**Section 1.0 Institutional Uses**

- 1.1 Day Care Center, school age child care program, nursery school, kindergarten
- 1.2 Public or private nonprofit college or technical school, trade or vocational school operated for college-age students; includes buildings, land or other facilities used for educational purposes but not including space used for revenue producing purposes not directly associated with the education of students (for space used for revenue producing purposes, see commercial uses).
- 1.3 Public parks, playgrounds, municipal buildings or uses
- 1.4 Museum, art gallery, private library
- 1.5 Non-profit community service center or charitable organization
- 1.6 Accessory use within a school, kitchen and dining facilities for staff or students; dwelling units for staff

**2.0 Office Uses**

- 2.1 Real estate development, management
- 2.2 Finance, credit investment but not in a bank
- 2.3 Professional services such as law, engineering, architecture, consulting service

2.4 Advertising, editing, composition, but not including printing, or other reproduction service

2.5 Employment agency, office of a business, professional, labor, civic or social association

2.6 Office or manufacturer's representative or salesman with no sales or storage and distribution or products from the premises

2.7 Other business, administrative or professional office, not elsewhere classified

### **3.0 Personal Business Uses**

3.1 Bank, credit union

3.2 ATM machine which may be either a principal use or accessory use

3.3 Travel Agency, insurance agency, ticket agency

3.4 Photographic services including commercial photography

3.5 Photocopying, reproduction services but not commercial printing

3.6 For-profit school for instruction in academics, art, skills or vocational training

3.7 ATM machine which may be either a principal use or accessory use with drive-up window or auto-oriented branch bank

### **4.0 Commercial Recreation, Amusement, Entertainment**

4.1 Automobile parking lot where the parking spaces do not serve a principal use on the same lot and where no sales or service takes place

### **5.0 Manufacturing**

5.1 Laboratory engaged in research, experimental and testing activities, which may include the development of mock-ups and prototypes but not the manufacture of finished products

5.2 Manufacturing in the fields of biotechnology, medical, pharmaceutical, physical, biological and behavioral sciences and technology, environmental science, toxicology, genetic engineering, comparative medicine, bioengineering, cell biology, human and animal nutrition including the production of equipment, apparatus, machines and devices for research, development, manufacturing and advance and practical application in any such field or area, and including, office, administrative and support facilities related to any of the foregoing activities. All development proposals shall comply with applicable Federal, State and local laws, regulations and ordinances including, without limitation,

laws, regulations and ordinances governing air pollution, water pollution control, noise and illumination.

5.3 Light manufacturing

**6.0 Utilities, Communications and Transportation**

6.1 Substations, pumping station or automatic telephone exchange of a regulated public utility

6.2 Radio, Television studio, but without transmitting or receiving towers

6.3 Wireless communication facility in accordance with the 2009 Zoning By-Law

**7.0 Operational Standards for All Commercial Uses**

The Developer shall comply with the following operational standards for all uses

7.1 All operations are conducted entirely within an enclosed building

7.2 Operations, in part or in whole, conducted outdoors during operating hours and subject to the transition and screening requirements as required by the Zoning Board of Appeals

7.4 Storage of equipment and products outdoors during non-operating hours

**8.0 Temporary Uses**

8.1 Temporary structures and uses not otherwise permitted in the CRO District provided the SPGA makes a finding that the proposed structure or use is compatible with the neighborhood (see 135-9F of the 2009 Zoning Bylaw)

**APPENDIX B**  
**TO**  
**PRELIMINARY SITE DEVELOPMENT AND USE PLAN**

**SPECIAL TOWN MEETING**  
**NOVEMBER, 2009**  
**ZONING AMENDMENT TO COMMERCIAL DISTRICT NUMBER 9**

**45, 55 and 65 HAYDEN AVENUE**

**METES AND BOUNDS DESCRIPTION OF CD-9 DISTRICT**

A certain parcel of land situated in the Town of Lexington, Middlesex County, Massachusetts (the "Premises") bounded and described as follows:

Beginning at a point on the northerly sideline of Hayden Avenue ("Hayden Avenue") in the Town of Lexington, Middlesex County, Massachusetts, at the southwesterly corner of the premises described herein where those premises abut land now or formerly owned by Ledgemont Research; thence running,

N 20° 39' 20" E	A distance of One Hundred Ninety and Thirty-Nine Hundredths feet (190.39') to a point;
N 39° 02' 20" E	Fourteen and Eighty Hundredths feet (14.80') to a point; thence
N 09° 06' 57" E	Forty-Four and Ninety-Three Hundredths feet (44.93') to a point; thence
N 18° 22' 40" W	Forty-Three and Sixty Hundredths feet (43.60') to a point; thence
N 28° 32' 20" E	One Hundred Thirty-Six and Sixty-Three Hundredths feet (136.63') feet to a point; thence
N 26° 22' 20" E	One Hundred Nine and Sixty-Seven Hundredths feet (109.67') to a point; thence
N 21° 22' 00" E	Sixty-Six and Ninety-Nine Hundredths feet (66.99') to a point; thence
S 89° 21' 00" E	Fifty-Eight and Fifty Hundredths feet (58.50') to a point. Thence
S 84° 23' 31" E	Eighty-Five and Fourteen Hundredths feet (85.14') to a point; thence
N 16° 00' 59" W	Fifty-Nine and Fifty-Three Hundredths feet (59.53') to a point; thence
N 05° 44' 47" W	Seventy-Seven and Ninety Hundredths feet (77.90') to a point; thence
N 10° 19' 12" W	One Hundred Five and Thirty-Eight Hundredths feet (105.38') to a point; thence

N 18° 18' 16" W	Forty and Eighty-Four Hundredths feet (40.84') to a point; thence
N 21° 23' 41" W	Thirteen and Seventy-Three Hundredths feet (13.73') to a point; thence
S 53° 08' 08" E	Two Hundred Forty-Nine and Fifty-One Hundredths feet (249.51') to a point; thence
	EASTERLY Along the arc of a curve having a radius of Three Thousand Nine Hundred Thirty and no Hundredths feet (3,930.00'), a length of One Hundred Eighty-Nine and Forty-One Hundredths feet (189.41') to a point; thence
S 87° 36' 20" E	One Thousand Three Hundred Ninety-Five and Fifty-Nine Hundredths feet (1,395.59') to a point; thence
EASTERLY, NORTHEASTERLY	Along the arc of a curve having a radius of One Hundred Thirty-Five and no Hundredths feet (135.00'), a length of Fifty Eight and Ninety Hundredths feet (58.90') to a point; thence
N 67° 23' 52" E	One Hundred Forty-Six and Eighty-Nine Hundredths feet (146.89') to a point; thence
S 03° 52' 06" E	One Hundred Eleven and Twenty-Five Hundredths feet (111.25') to a point; thence
S 44° 07' 54" W	Five Hundred Sixty-One and Nineteen Hundredths feet (561.19') to a point; thence
S 22° 29' 38" E	Four Hundred Thirty-Five and Seventy-Five Hundredths feet (435.76') to a point; thence
WESTERLY	Along the arc of a curve having a radius of Nine Hundred Eighty-Five and no Hundredths feet (985.00'), a length of Twelve and Eleven Hundredths feet (12.11') to a point; thence
N 87° 36' 20" W	One Thousand Three Hundred Ninety-Five and Sixty Hundredths feet (1,395.60') to a point; thence
WESTERLY, NORTHWESTERLY	Along the arc of a curve having a radius of Four Thousand Seven Hundred Eighty and no Hundredths feet (4,780.00'), a length of Two Hundred Fifty-Two and Fifty-Five Hundredths feet (252.55'), to a point; thence
NORTHWESTERLY	Along the arc of a curve having a radius of Seven Hundred Eighty-Five and no Hundredths feet (785.00'), a length of Four Hundred Twenty-Eight and Seventy-Seven Hundredths feet (428.77') to the point of beginning.

Comprising  $37\pm$  acres of land, more or less; all such distances being approximate.



**APPENDIX ~~DE~~**  
**TO**

**PRELIMINARY SITE DEVELOPMENT AND USE PLAN**

**SPECIAL TOWN MEETING  
NOVEMBER ~~—~~, 2009  
ZONING AMENDMENT TO COMMERCIAL DISTRICT NUMBER 9  
45, 55 and 65 HAYDEN AVENUE**

**TRAFFIC MITIGATION & TRANSPORTATION DEMAND MANAGEMENT PLAN**

The Traffic Mitigation and Transportation Demand Management Plan approved as part of the Original PSDUP shall continue to be binding upon the Premises, subject to any additional requirements specified below.

Traffic increases associated with the proposed 110,000 ~~gsf~~gross floor area of office/laboratory expansion will result in no material change in operating conditions at any of the study intersections under future conditions. Cubist Pharmaceuticals (“Cubist”) currently implements an existing aggressive and successful traffic demand management (TDM) program with specific elements of this program listed below.

**Cubist Travel Demand Management (TDM) Policies**

Cubist ~~Pharmaceuticals~~ implements a TDM program for its employees that follow the general framework established in the 1997 PSDUP for the Site, including the following key elements:

- *Route 128 Business Council Membership.* Cubist is a paid member of the Route 128 Business Council.
- *Transportation Coordinator.* Cubist has identified Ms. Caroline Chevalier (Senior Human Resources Analyst) as the designated on-site transportation coordinator for employees, with an office address of 65 Hayden Avenue.
- *Central Listing of Alternative Transportation Services.* Cubist posts Alternative Transportation Services including the “Cubist Carpool Center” on an employee intranet site. Alewife shuttles and other public transportation routes/schedules are also posted in the break room areas of the site.
- *Employee Transit Subsidies.* Cubist participates at a level three sponsorship of the Alewife Shuttle and reimburses 100% of the cost of monthly ~~T~~MBTA-passes and the Alewife Shuttle. Review of the most recent available ridership report for the Alewife Shuttle (provided by the Route 128 Business Council) indicates that Cubist generates an average daily ridership of approximately 30 riders per day – more than 5 percent of its workforce).

- *Employee Flex-Time/Telecommuting Policies.* Cubist posts its *Guiding Principles for Work Life Balance* (flex time/telecommuting policy) on an employee intranet site. ~~Approximately 75%~~ More than 50% of Cubist's workforce is already working on a flex time/telecommuting basis in some capacity based on a 2009 Employee Transportation Survey.
- *On-Site Showers/Lockers.* Cubist's facilities are outfitted with showers and locker facilities to encourage bicycle commuting and employee exercise programs.
- *On-Site Support Services/Amenities.* Cubist's facilities include services and amenities that encourage employees to remain on-site for essential services and internalize trip making to the campus including:
  - A full cafeteria with catering options
  - Fitness center with fitness classes offered to employees
  - On-site massage therapy
  - On-site dry cleaning pick-up/drop-off
  - On-site mailboxes
- *LexPress Shuttle Operating Subsidy.* Cubist ~~Pharmaceuticals~~ has made a \$4,000 annual financial contribution to the Town to support the LexPress bus service in accordance with the 1997 PSDUP.

Notwithstanding anything to the contrary contained herein, the Applicant shall have the option of satisfying its continuing monetary obligations with respect to the CD-9 Zoning Provisions adopted as part of the original CD District in 1997 as noted above by making a one-time lump sum payment of Eighty Thousand (\$80,000) Dollars. Upon payment of said amount, all such obligations shall be deemed satisfied in full and upon request, the Town shall provide a Certificate to the Applicant confirming such payment and satisfaction of obligations.

Results of observed trip generation for 45, 55 and 65 Hayden Avenue (buildings primarily occupied by Cubist) suggests that the TDM policies have a measurable effect in reducing single occupant vehicle trips to/from the Site, as the Campus trips are up to 27 percent lower than ITE standards for a research and development use and more than 10 percent lower than ~~ITE standards for an office land use (and more for R&D land use)~~ use.

In consideration of the requested zoning change Cubist Pharmaceuticals will provide additional monetary contributions towards traffic mitigation to the Town. The additional mitigation commitments are defined in the Memorandum of Understanding between Cubist Pharmaceuticals and the Town are described in Appendix F.

**APPENDIX ~~EG~~**  
**TO**  
**PRELIMINARY SITE DEVELOPMENT AND USE PLAN**  
~~For the CD-9 District~~

**SPECIAL TOWN MEETING**  
**NOVEMBER, 2009**  
**ZONING AMENDMENT TO COMMERCIAL DISTRICT NUMBER 9**

~~At 45, 55 and 65 HAYDEN AVENUE, LEXINGTON, MASSACHUSETTS~~

~~\_\_\_\_\_~~, 2009

**WETLAND AREA CERTIFICATION**

I hereby certify that the area of land within the wetland boundaries on the subject property is determined to be approximately \_\_\_\_\_ square feet (\_\_\_\_\_ acres), as approved by the Lexington Conservation Commission. Such wetland areas were delineated and located by an on the ground field survey by \_\_\_\_\_.

(To be completed upon the issuance of Conservation Commission approval of wetlands delineation.)

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[1155478.11](#)